



Entered on Docket
December 28, 2007

Hon. Linda B. Riegle
United States Bankruptcy Judge

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ATTORNEYS FOR USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:
USA COMMERCIAL MORTGAGE COMPANY,
Debtor.

In re:
USA CAPITAL REALTY ADVISORS, LLC,
Debtor.

In re:
USA CAPITAL DIVERSIFIED TRUST DEED
FUND, LLC,
Debtor.

In re:
USA CAPITAL FIRST TRUST DEED FUND, LLC,
Debtor.

In re:
USA SECURITIES, LLC,
Debtor.

Affects:

- ☐ All Debtors
- ☐ USA Commercial Mortgage Company
- ☐ USA Securities, LLC
- ☐ USA Capital Realty Advisors, LLC
- ☒ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA First Trust Deed Fund, LLC

Case No. BK-S-06-10725 LBR
Case No. BK-S-06-10726 LBR
Case No. BK-S-06-10727 LBR
Case No. BK-S-06-10728 LBR
Case No. BK-S-06-10729 LBR

Chapter 11

Jointly Administered Under
Case No. BK-S-06-10725-LBR

**ORDER DISALLOWING PROOF
OF CLAIM OF SALVATORE J.
REALE**

Hearing:

Date: December 5, 2007
Time: 9:30 a.m.
Place: Courtroom 1, Foley Federal
Building

The Court having considered the Objection to the Proof of Claim of Salvatore J. Reale

(the "Objection") [Docket 5249] whereby USA Capital Diversified Trust Deed Fund, LLC ("Diversified"), a revested debtor in the above-captioned cases, objects to the Proof of Claim of Salvatore J. Reale ("Reale") filed on September 17, 2007, in the amount of \$4,869,310.57 (the "Reale Proof of Claim"), the Response to Diversified's Objection [Docket 5408], the Status Conference Statement Regarding Diversified's Objection [Docket 5427], and the pleadings filed in connection with Diversified's Motion to Establish Disputed Claim Reserve [Docket No. 5250], and the Objection having come on for hearing on December 5, 2007 at 9:30 a.m., Diversified having appeared through its counsel Jeffery Hermann, Esq. and Marc Levinson, Esq. of Orrick, Herrington & Sutcliffe LLP, and Mr. Reale having appeared through his counsel, Michael Newman, Esq., of Gerrard, Cox, & Larsen, and good cause appearing;¹

The Court having observed that Reale filed his Proof of Claim after the bar date established by prior order of this Court without first having obtained an order of this Court allowing such a late filing under Bankruptcy Rule 9006 (b) (1), and based upon the findings and conclusions placed upon the record by the Court at the conclusion of the hearing on the Objection, which such findings and conclusions are incorporated herein, and good and sufficient cause appearing therefore;

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¹ Terms not otherwise defined herein shall be as defined in the Objection.

1 IT IS HEREBY ORDERED that the Reale Proof of Claim is disallowed in its entirety and
2 for all purposes, without prejudice to the right of Reale to re-file such proof of claim after first
3 obtaining an appropriate order from this Court under Bankruptcy Rule 9006 (b) (1) allowing such
4 late filing.

5 Dated this _____ day of December, 2007.

6 **In accordance with Local Rule 9021, the undersigned certifies:**

7 ☐ The court has waived the requirement of approval under LR 9021.

8 ☐ No parties appeared or filed written objections, and there is no trustee appointed in the
9 case.

10 ☐ I have delivered a copy of this proposed order to all counsel who appeared at the hearing,
11 any unrepresented parties who appeared at the hearing, and any trustee appointed in this case,
12 and each has approved or disapproved the order, or failed to respond, as indicated below:

12 **APPROVED / DISAPPROVED:**

13 GERRARD, COX & LARSEN

14 By: 

15 Douglas D. Gerrard, Esq.

16 Sheldon A. Herbert, Esq.

17 Michael J. Newman, Esq.

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Attorneys for Salvatore J. Reale

18 Respectfully submitted,

19 SNELL & WILMER LLP.

20 By: 

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